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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,880	01/18/2001	Gregory P. Crawford	12136.125	9292

7590 06/16/2004

REVEO Inc.  
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Elmsford, NY 10523

EXAMINER
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AKKAPEDDI, PRASAD R

ART UNIT	PAPER NUMBER
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2871

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**Application No. 09/765,880Applicant(s) CRAWFORD ET AL.Examiner Prasad R AkkapeddiArt Unit 2871

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Response to Arguments***

Applicant's arguments filed 04/02/2004 have been fully considered but they are not persuasive. Applicant's arguments with respect to claims 1-12 and 32 have been considered but are moot. The original rejections as stated in the Office action dated September 16, 2003 are still valid.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 7-13 and 32 rejected under 35 U.S.C. 102(b) as being anticipated by Sutherland et al. (Sutherland I) (U.S. Patent No. 5,942,157).

As to claims 1 and 32: Sutherland I, discloses a device having electrically controllable, variable reflection gratings (diffraction efficiency, note: diffraction is a form of reflection by a grating) (col. 1, lines 15-25) having a composition comprising a periodic array of liquid crystal disposed in a polymer matrix (PDLC) (col. 5, lines 18-25), the liquid crystal having an index of refraction that is variable in response to an applied electric field, wherein the index of refraction of the liquid crystal array and the index of refraction of the polymer matrix,  $n_p$ , are mismatched at first and second applied electric field strength (col. 17, lines 27-61). Sutherland I, discloses the application of external electric field across the ITO electrodes for applying the electric fields (col. 10, lines 15-16) and a means for the application of the electric field (figs. 14-17).

As to claims 2-4: Sutherland I, discloses the application of various electric fields, including a field strength of zero volts (Fig. 4), as recited in instant claim 2, The alignment of the liquid crystal droplets with the electric field is disclosed in Fig. 8b and (col. 9, lines 47-53) and the various reflection wavelengths with the applied electric field is disclosed in Fig. 4.

As to claims 7-13: Sutherland I, discloses that the liquid crystal has a positive and negative dielectric anisotropy (col. 3, lines 41-42), as recited in instant the claims 7 and 8 and the dielectric anisotropy dependence upon applied

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field frequency is disclosed in (col. 13, lines 60-63), as recited in the instant claim 9. Sutherland I, discloses the application of these reflection gratings in switchable filters (col. 15, line 41), as recited in the instant claim 10. Sutherland I, discloses a power source for the application of the electric field (Figs. 14-17) and the electrodes being ITO that is electrically conductive (col. 7, lines 57-58), as recited in the instant claims 11-13.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutherland I in view of Sutherland et al. (Sutherland II) (Applied Physics Letters 64 (9), 28 February 1994), the Applicant cited disclosure.

Sutherland I, discloses an effective refractive index of the liquid crystal ( $n_{\text{sub LC}}$ ) and a refractive index for the polymer ( $n_{\text{sub p}}$ ) (col. 17, lines 27-30).

However, Sutherland I, does not explicitly state that the liquid crystal has an ordinary ( $n_{\text{sub 0}}$ ) and an extraordinary ( $n_{\text{sub e}}$ ) refractive indices and that the ( $n_{\text{sub 0}}$  is not equal to  $n_{\text{sub p}}$ ) and does not disclose that the indices are related by ( $n_{\text{sub e}} > n_{\text{sub p}} > n_{\text{sub 0}}$ ).

Sutherland II, on the other hand in disclosing electrically switchable volume gratings in polymer-dispersed liquid crystals, discloses that the liquid

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crystal having and ordinary ( $n_{\text{sub } 0} = 1.518$ ) and an extraordinary ( $n_{\text{sub } e} = 1.738$ ) indices of refraction and the refractive index of the polymer ( $n_{\text{sub } p} = 1.517$ ) (page 1076). Hence the relationships ( $n_{\text{sub } 0}$  is not equal to  $n_{\text{sub } p}$ ) and ( $n_{\text{sub } e} > n_{\text{sub } p} > n_{\text{sub } 0}$ ) is satisfied, as recited in claims 5 and 6.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to adapt the specific indices of refraction for the liquid crystal and the polymer satisfying the indicated relationships to achieve devices with high diffraction efficiencies, as well as narrow band wavelength and angle selectivity (page 1074).

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutherland I, in view of Catchpole et al. (Catchpole) (U.S. Patent No. 5,644,330).

Sutherland I discloses that the electrode comprises a conductive layer made out of ITO. Sutherland I, however, does not disclose that the electrode is a metallic electrode.

Catchpole, in disclosing a driving method for polymer stabilized liquid crystal displays, discloses that the electrode layer (18) may be a thin layer of metal such as silver, copper, titanium and molybdenum, including a thin layer of transparent conductive material such as Indium tin oxide (col. 3, lines 55-60).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to adapt the thin layer of metal in place of Indium tin oxide, as long as the metal layer is transparent (col. 3, line 54-55) for

low energy consumption devices and for effective addressing of large, color displays.

7. Following is the response by the examiner to the applicant's arguments:

1. Applicant's argument No. 1 (page 7, lines 21-24): Sutherland I does not support a rejection under 35 U.S.C. 102 (b) and further it teaches that the index of refraction of the polymer plane and the liquid crystal are matched and hence does not anticipate the recited limitation in claims 1 and 32.

Examiner's response to argument No. 1: While the examiner agrees with the applicant's arguments, it is respectfully that the above teachings of Sutherland I applies to only a special circumstances as pointed out in (col. 17, lines 33-40).

The matching is required only to switch off the birefringence. However, Sutherland does teach the alteration (mismatch) of the index of refraction of the liquid crystal ( $n_{\text{sub lc}}$ ) and the index of refraction of the polymer matrix (col. 17, lines 31-33) with the application of the electric field. When an electric field is applied to vary the indices of refraction, it is clearly anticipated that the electric field can have several, including a first and a second electric field strengths as can be seen in Figs. 2, 4 8, 9, 10, 14-17.

2. Applicant's argument No. 2 (page 8, lines 4-6): Sutherland I does not disclose the limitation of a "means for applying an electric field across the device to provide first and second applied electric field strengths".

Examiner's response to argument No. 2: Sutherland teaches the application of electric field at several locations in the reference. Hence the teachings of a

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means such as a power supply, is inherent for the application of the electric field strengths and voltages.

The rejection arguments for the rest of the claims 2-14 are outlined above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prasad R Akkapeddi whose telephone number is 571-272-2285. The examiner can normally be reached on 7:00AM to 5:30PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H Kim can be reached on 571-272-2293. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAA

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